Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent as well as to recover the filing fee for this proceeding. At the beginning of the hearing, the Landlord claimed that the Tenants had moved out and as a result, she withdrew her application for an Order of Possession.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on July 6, 2011. The Landlord did not provide proof of this service (such as a receipt for the registered mail) at the hearing and therefore the Dispute Resolution Officer requested her to send that evidence via fax no later than 4:00 p.m. this day. However the Landlord did not provide the evidence requested and as a result, I find that there is insufficient evidence to conclude that the Tenants have been served with the Landlord's hearing package as required by s. 89 of the Act. As a result, the Landlord's application for a Monetary Order is dismissed with leave to reapply within the 2 year time limit set out under s. 60 of the Act.

Conclusion

The Landlord's application for an Order of Possession is withdrawn. A Monetary Order in the amount of **$2,250.00** has been issued to the Landlord and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an Order of that Court. The Landlord's application for unpaid rent is dismissed with leave to reapply. The Landlord's application to recover the filing fee for this proceeding is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 27, 2011.

Residential Tenancy Branch